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300 Lakeside Drive
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March 15, 1993

Ms. Donna Searcy
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

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FCC MAIL ROOM

Comments on FCC Docket 92-538 Notice of Proposed Rulemaking on
Local Multipoint Distribution Service in the 27.5 to 29.5 GHz Band
(CC Docket No. 92-297; RM7872; RM7722, PP 22)

Dear Ms. Searcy:

The Regents of the University of California (UC) operates nine campuses including five medical centers and numerous professional schools which provide undergraduate, graduate and professional instruction, as well as research and public service throughout the state of California. In order to effectively and efficiently provide these educational services, UC must be able to have access to future technological innovations as they become available. Therefore, I submit this original and nine copies of the University's comments on the Commission's proposal to reallocate the 28 GHz spectrum to a new radio service called Local Multipoint Distribution Service (LMDS).

Education Set Aside of Band B

It is imperative that at least half of this new radio service spectrum be set aside for licensing to local educational institutions and that the regulations for this spectrum establish a means for the orderly development of educational use of LMDS. LMDS will allow multipoint interactive video, data and voice communications among the educational program providers and their affiliated learners utilizing a cross-polarized cellular system which can more efficiently provide interaction with geographically dispersed populations. Therefore, local public education institutions will be able to improve their outreach to geographically dispersed students and physically handicapped



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students and will be able to expand the interaction between classrooms, experimental field stations and other research locations via LMDS.

Recommendation: The 1000 MHz B-Band of the LMDS spectrum should be reserved for licensing to local educational institutions, with preference given to those educational institutions which will utilize the LMDS for intersegmental (i.e., among kindergarten through twelfth grade systems, community college systems, four year colleges and research universities) programs. An FCC Rule 21.1001(c) should be added: "The 1000 MHz B-Band of the LMDS spectrum will be reserved for educational institution applicants."

Excess Capacity Leasing Agreements

By utilizing a set of excess capacity airtime leasing regulations similar to the Commission's Instructional Television Fixed Service (ITFS) rules, the Commission will encourage the rapid utilization of the innovative aspects of LMDS by the local educators who have continually increasing educational responsibilities and decreasing or restricted revenue sources. Educators will be able to rapidly institute programs and educational offerings such as teacher inservice to schools, medical grand rounds to hospitals, clinics and doctors' offices and cutting edge engineering courses to industry sites, military bases and national laboratories with ready recapture of airtime regulations which allow the educational institutions to expand the amount of airtime they use for educational programs when academic programs are expanded or created for these systems. Such excess capacity airtime leasing arrangements benefit the public interest, convenience and necessity by reducing the amount of money educational institutions have to spend constructing LMDS systems, by increasing the revenues available for educators to improve academic, public service and research activities and by more efficiently and more fully utilizing the 28 GHz radio spectrum. Such cooperative leasing arrangements with commercial video entertainment dissemination companies can also expedite widespread testing of the feasibility of using LMDS to make last-mile linkages of data resources such as the National Research and Education Network (NREN) to education and research sites which would otherwise be prohibitively expensive to interconnect with.

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Recommendation: Educational institutions should be allowed to lease excess airtime capacity to commercial operators in a manner similar to that allowed in the ITFS leasing rules.

Geographic Service Areas

Because the area containing 90% of the population and the area containing the sites where an educational institution will need to provide LMDS signals are not necessarily congruous, an educational license applicant should be able to request exceptions to the 487 proposed 1992 Rand McNally Commercial Atlas and Guide's Basic Trading Areas (BTA) for their LMDS geographic service areas in those cases where the educational applicants can show a programmatic need to cover areas beyond the BTA border. Also, because of the budget constraints of educational applicants, they should be allowed up to five years to install transmitters serving 90% of the educational receive sites identified in their application rather than 90% of the BTA populations.

Recommendation: Proposed FCC Rule 21.1007 should be amended, replacing 21.1007(b) with: "No GSA for a commercial LMDS applicant may extend beyond the BTA for which applicant is applying. If an educational LMDS applicant's GSA extends beyond the BTA for which applicant is applying, an exhibit showing the programmatic need to cover such an adjacent area must be included in the application." Proposed FCC Rule 21.1007(c)(i) should be replaced with: "The GSA boundaries of the commercial LMDS applicant must include 90% of the population of the BTA. The GSA boundaries of the educational LMDS applicant must include the educational transmit/receive sites which will become operational within the first five years of operation."

Application Fees

Educational applicants for the B-Band LMDS channels should not have to pay license application fees or construction completion fees to the Commission as proposed in paragraph 50. B-Band applicants should enjoy the same fee exemptions as apply to noncommercial educational radio or television or ITFS license applicants.

Recommendation:

Educational institutions which have educational or research facilities located in the LMDS BTA should be exempt from all Commission license application fees and construction completion fees.

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Random Selection Procedures

Because of the budgeting, bond issuance and long range planning procedures that educational institutions are subject to, it does not benefit the public interest, convenience or necessity to require educational LMDS license applicants to participate in random license selection procedures. The public interest is better served by spending educational dollars on development of innovative academic programs rather than on lawyer fees to contest mutually exclusive license applicants.

Recommendation: Proposed FCC Rule 1.826(a) should be amended to insert the word "commercial" before "Local Multipoint Distribution Service license" in the first sentence. Insert "commercial" before the word "applicant" in the fourth sentence and the term "A-Band" after "each" and before "frequency block" in the same sentence. A new section 1.826(d) should be added: "If there are mutually exclusive applications for an initial conditional LMDS B-band educational license, a comparative selection process shall give preference to a) applicants required by state law to serve geographically dispersed and physically handicapped students, b) applicants which have articulation agreements with other educational segments to facilitate the orderly progression of their students from one segment to another, c) applicants which are responsible for meeting the continuing education and certification instruction needs of professionals such as teachers in K-12 school districts, professors in community colleges and four-year colleges and universities, medical doctors, nurses, dentists, lawyers and engineers, d) applicants required by state law to serve economically disadvantaged students and e) applicants serving students at residential institutions such as schools for the blind, schools for the deaf, youth authorities, prisons, mental health facilities, state conservation corps facilities, military bases and long term health care facilities."

License Term

A five year license term as recommended in paragraph 40 is too short of a period to encourage long term planning and adequate capitalization for educational LMDS operators. The ITFS spectrum has ten year license terms, which better coincide with the budgeting and project planning needs of educators than a five year license.

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Recommendation: Amend proposed FCC Rule 21.1014(a) to replace the first sentence with: "Each licensee will initially receive a ten-year license conditioned upon constructing an A-Band commercial LMDS system within three years of date of grant and upon constructing a B-Band educational LMDS system within five year of date of grant." In 21.1014(a)(i) add "or five-year" after "letter of notification on or before the three year" and before "anniversary grant of the conditional license certifying that the facilities as authorized have been completed..."

Conclusion

As a potential LMDS licensee, UC is concerned that the Commission should maximize educational use of the LMDS spectrum by setting aside at least 1000 MHz (B-Band) for educational LMDS licensees and by tailoring educational LMDS regulations to encourage educational institutions to cooperate across educational segments in the effective and efficient use of LMDS for education, research and public service activities.

If there is additional information on potential educational use of interactive 28GHz which we can provide you, please contact Ms. Willi Bokenkamp of my staff at (510) 987-0373.

Sincerely,

Richard West
Associate Vice President
Information Systems and
Administrative Services

Enclosure: 9 copies of this Comment for FCC distribution